



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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To: Field Managers

From: State Director

Subject: Use of Categorical Exclusion (CX) for Applications for
Permit to Drill (APD) and Rights-of-Way

The APD Re-Engineering Team has identified several ways for streamlining the APD/ROW process. The Team has identified the NEPA process, and in particular the use of CXs, as one way to expedite permitting and thus improve customer service by saving processing time. The Department of the Interior 516 Manual provides a list of approved CXs for BLM (Attachment 1). This policy has been approved by the Council on Environmental Policy and has been in place for several years.

Several CXs have specific applicability to the APD process:

Fluid Minerals

(3) Approval of minor modifications or minor variances from activities described in approved development/production plans (e.g. the approved plan identifies no new surface disturbance outside the area already identified to be disturbed).

Realty

(9) Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

(12) Grants of rights-of-way wholly within the boundaries of other compatibly developed rights-of-way.

(13) Amendments to existing rights-of-way such as the upgrading of existing facilities which entail no additional disturbances outside the rights-of-way boundary.

(14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.

(16) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

(18) Temporary placement of a pipeline above ground.

The APD Team has developed the following list that, in most cases, are appropriate examples of these specific CXs:

1. Twinning an existing producing or Plugged/Abandoned location with new drills when no new surface is disturbed.
2. APD Extensions/Resubmittals.
3. Reentry of a plugged well.
4. Movement of pipeline, flowline, cathodic protection systems, powerline road within an approved ROW.
5. New access roadways, turnouts, culverts, and bridges when no new surface is disturbed.

Note: For the above CXs, the phrase "no new surface disturbance" also applies equally to sites that have been rehabilitated and would be disturbed again.

Before a CX can be used, the Department requires a litmus test. If any one of the following impacts are expected to occur, then an Environmental Analysis or Environmental Impact Statement must be done. If not, then the appropriate CX should be used.

Chapter 2 Appendix 2, Exceptions to CXs

The following exceptions apply to individual actions within CXs. Environmental documents must be prepared for actions which may:

1. *Have significant adverse effects on public health or safety.*
2. *Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, flood plains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks.*
3. *Have highly controversial environmental effects.*
4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*
5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*
6. *Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.*

7. *Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.*

8. *Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.*

9. *Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.*

10. *Threaten to violate a Federal, State, local or tribal law, or requirement imposed for the protection of the environment.*

Our internal processes need to be adjusted so we can achieve the benefits this policy affords. To that end, the Field Manager or her/his designee will make the determination if a CX is appropriate. When that decision is made, the application needs no further review or concurrence. Though the decisionmaker may consult key staff as part of the decision process, the application will not be routed to various specialists for review or concurrence as would be done for an Environmental Analysis. In other words, "no surface disturbance" should quickly dictate the use of the CX, and therefore preclude the need for further analysis. However, surface disturbance that happened many years ago, and in some cases even prior to NEPA, may require an on-site review given the environmental change that may have occurred. A CX Decision Record is attached for your use.

Though our reengineering effort began before the advent of the "National Energy Plan", the Plan only reinforces our objective to expedite permitting while still protecting the environment. To this end, I expect and direct all Field Managers to use the Department's CX Policy to the fullest extent. I have asked the Reengineering Team to report back to me on the implementation of this Policy in 3 months to ensure we move forward.

Signed By:

Richard A. Whitley
Associate

Authenticated By:

Sandy Cordova
Staff Assistant

2 Attachments:

- 1 - BLM CX List (5 pp)
- 2 - CX Decision Record (1p)

Distribution

WO(210, A. Aldrich), LS, Rm. 1075 - 1
WO(310, D. Fortner), LS, Rm. 501 - 1
NM (910) - 1
NM (953, Binder) - 1

BLM Categorical Exclusion (CX) List

[NOTE: BLM's CX list is incorporated into the DOI NEPA Manual at 516 DM 6, Appendix 5, Section 5.4 (effective 5/19/92).]

5.4 Categorical Exclusions

The Departmental Manual [516 DM 2.3A(3) & Appx 2] requires that before any action described in the following list of CXs is used, the exceptions must be reviewed for applicability in each case. The proposed action cannot be categorically excluded if one or more of the exceptions apply, thus requiring either an EA or on EIS. When no exceptions apply, the following types or bureau actions normally do not require the preparation of an EA or EIS.

A. Fish and Wildlife

(1) Modification of existing fences to provide improved wildlife ingress and egress.

(2) Minor modification of water developments to improve or facilitate wildlife use (e.g. modify enclosure fence, install flood valve, or reduce ramp access angle).

(3) Construction of perches, nesting platforms, islands and similar structures for wildlife use.

(4) Temporary emergency feeding of wildlife during periods of extreme adverse weather conditions.

(5) Routine augmentations such as fish stocking, providing no new species are introduced.

(6) Relocation of nuisance or depredating wildlife, providing the relocation does not introduce new species into the ecosystem.

(7) Installation of devices on existing facilities to protect animal life such as raptor electrocution prevention devices.

B. Fluid Minerals

(1) Issuance Of future interest leases under the Mineral Leasing Act of Acquired Lands where the subject lands are already in production.

(2) Approval of mineral lease adjustments and transfers, including assignments and subleases.

(3) Approval of minor modifications or minor variances from activities described in approved development/production plans (e.g., the approved plan identifies no new surface disturbance outside the area already identified to be disturbed).

(4) Approval of unitization agreements, communitization agreements, drainage agreements, underground gas storage agreements, compensatory royalty agreements, or development contracts.

(5) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.

(6) Approval of royalty determinations such as royalty rate reductions.

C. Forestry

(1) Land cultivation and silvicultural activities (excluding herbicides) in forest tree nurseries, seed orchards, and progeny test sites.

(2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.

(3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used, and there is no conversion of timber type or conversion of nonforest to forest land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of nontoxic big game repellent, spot scalping, rodent trapping, fertilization of seed trees, fence construction around outplanting sites, and collection of pollen, scions and cones.

(4) Precommercial thinning and brush control using small mechanical devices.

(5) Disposal of small amounts of miscellaneous vegetation products outside established harvest areas, such as Christmas trees, wildings, floral products (ferns, boughs, etc.), cones, seeds, and personal use firewood.

D. Rangeland Management

(1) Approval of transfers of grazing preference.

(2) Placement and use of temporary (not to exceed 1 month) portable corrals and water troughs, providing no new road construction is needed.

(3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.

(4) Removal of wild horses or burros from private lands at the request of the landowner.

(5) Processing (transporting, sorting, providing veterinary care to, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.

(6) Approval of the adoption of healthy, excess wild horses and burros.

(7) Actions required to ensure compliance with the terms of Private Maintenance and Care Agreements.

(8) Issuance of title to adopted wild horses and burros.

(9) Destroying old, sick, and lame wild horses and burros as an act of mercy.

E. Realty

(1) Withdrawal extensions or modifications which only establish a new time period and entail no changes in segregative effect or use.

(2) Withdrawal revocations, terminations, extensions, or modifications and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.

(3) Withdrawal revocations, terminations, extensions, or modifications; classification terminations or modifications; or opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions (prior to implementation) and in conformance with and are covered by a Resource Management Plan/EIS (or plan amendment and EA or EIS).

(4) Administrative conveyances from the Federal Aviation Administration (FAA) to the State of Alaska to accommodate airports on lands appropriated by the FAA prior to the enactment of the Alaska Statehood Act.

(5) Actions taken in conveying mineral interest where there are no known mineral values in the land, under Section 209(b) of the Federal Land Policy and Management Act of 1976 (FLPMA).

(6) Resolution of class one color-of-title cases.

(7) Issuance of recordable disclaimers of interest under Section 315 of FLPMA.

(8) Corrections of patents and other conveyance documents under Section 316 of FLPMA and other applicable statutes.

(9) Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

(10) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Rights-of-Way).

(11) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA Section 302(b) leases where no new facilities or other changes are needed.

(12) Grants of rights-of-way wholly within the boundaries of other compatibly developed rights-of-way.

(13) Amendments to existing rights-of way such as the upgrading of existing facilities which entail no additional disturbances outside the rights-of-way boundary.

(14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.

(15) Transfer of land or interest in land to or from other Bureaus or Federal agencies where current management will continue and future changes in management will be subject to the NEPA process.

(16) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

(17) Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.

(18) Temporary placement of a pipeline above ground.

(19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

(20) Onetime issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

F. Solid Minerals

(1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands where the subject lands are already in production.

(2) Approval of mineral lease readjustments, renewals, and transfers including assignments and subleases.

(3) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.

(4) Approval of royalty determinations such as royalty rate reduction and operations reporting procedures.

(5) Determination and designation of logical mining units (LMUs).

(6) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.

(7) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable, salable and locatable minerals. (e.g., the approved plan identifies no new surface disturbance outside the areas already identified to be disturbed.)

(8) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals. (e.g., change in mining sequence or timing.)

(9) Digging of exploratory trenches for mineral materials, except in riparian areas.

(10) Disposal of mineral materials, such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

G. Transportation Signs

(1) Placing existing roads in any transportation plan when no new construction or upgrading is needed.

(2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattle guards on/or adjacent to existing roads.

(3) Temporary closure of roads.

(4) Placement of recreational, special designation or information signs, visitor registers, kiosks, and portable sanitation devices.

H. Other

(1) Maintaining plans in accordance with 43 CFR 1610.5-4.

(2) Acquisition of existing water developments (e.g., wells and springs) on public land.

(3) Conducting preliminary hazardous materials assessments and site investigations, site characterization studies, and environmental monitoring.

Included is siting, construction, installation and/or operation of small monitoring devices such as wells, particulate dust counters, and automatic air or water samples.

(4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.

(5) Issuance of special recreation permits to individuals or organized groups for search and rescue training, orienteering, or similar activities and for dog trials, endurance horse races, or similar minor events.

(6) A single trip in a 1-month period to data collection or observation sites.

(7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.

(8) Installation of minor devices to protect human life (e.g., grates across mines).

(9) Construction of small protective enclosures including those to protect reservoirs and springs and those to protect small study areas.

(10) Removal of structures and materials of nonhistorical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.

(11) Actions where BLM has concurrence or coapproval with another DOI agency and the action is categorically excluded for that DOI agency.

(12) Rendering formal classification of lands as to their mineral character and waterpower and water storage values.

CATEGORICAL EXCLUSION DECISION RECORD**PROPOSED ACTION**

BLM Office Lease/Serial/Case File No. _____

Description of Proposed Action: _____

Location of Proposed Action: _____

PLAN CONFORMANCE

The proposed action is subject to the following land use plan: _____

Approval Date: _____

The above Proposed Action has been reviewed and has been found to be in conformance as required by 43 CFR 1610.5 and BLM MS 1617.3.

NEPA REVIEW

The Proposed Action has been reviewed to determine if any of the exceptions described in 516 DM 2, Appendix 2, apply. The Proposal qualifies as a categorical exclusion under 516 DM 2, Appendix 1, for this(these) reason(s): _____

Preparer: _____ Date: _____

Field Manager/Asst Field Mgr: _____ Date: _____